THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 11096 of 1998

06.06.2007

Between :

R.Venkateswarlu, Godavarikhani and
others

… Petitioners

And :

The Singareni Colleries Company Ltd.,
Hyderabad and others

… Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETITION NO. 11096 of 1998

ORAL ORDER :

Heard Sri A.K.Jayaprakash Rao, learned counsel for the petitioners and Ms Uma representing Sri K.Sreenivasa Murthy learned Standing Counsel for the respondent-Company.

The four petitioners are aggrieved on being paid lesser salaries than the respondents 3 and 4 who are claimed to be their juniors, a claim which is not disputed. They seek parity in pay.

As the first petitioner has taken voluntary retirement he no longer claims any relief herein. Petitioners 2 to 4 alone remain in the arena claiming the reliefs already adverted to.

According to the petitioners, the 2nd petitioner joined the

service of the respondent-Company on 3.10.1979 as Motor Mechanic Grade-IV; was promoted as Motor Mechanic Grade-V on 1.1.1982 and further as Motor Mechanic Grade-VI on 1.4.1991. The 3rd petitioner joined the service of the respondent-Company on 1.12.1981 as Motor Mechanic Grade-IV; was promoted as Motor Mechanic Grade-V on 1.1.1982 and further as Motor Mechanic Grade-VI on 1.4.1991. The 4th petitioner joined the service of the respondent-Company on 4.12.1982 as Tractor Mechanic Grade-IV; was promoted as Tractor Mechanic Grade-V on 1.3.1983 and further as a Tractor Mechanic Grade-VI on 16.9.1992. The respondents 3 and 4 worked as apprentices under the 1st petitioner and had joined service in the year 1981 and 1982, respectively. The petitioners allege that while fixing the pay pursuant to a 1987 wage agreement, the 2nd respondent fixed the petitioners' basic pay at Rs.115.48 and of the 3rd and 4th respondents' at Rs.118.90, without justification, though respondents 3 and 4 were juniors to these petitioners. Claiming pay on par with the respondents 3 and 4 on the ground of equal treatment under Articles 14 and 16 of the Constitution, the petitioners seek relief.

The 2nd respondent has filed a counter affidavit on behalf of the respondents. To the extent relevant and material for the purposes of the present *lis*, the counter (in para-9) admits that the 2nd petitioner was promoted as Motor Mechanic Grade-V on 1.1.1982; 3rd petitioner was promoted as Motor Mechanic Grade-V, also on 1.1.1982. The answering respondent states that the petitioners 2 and 3 were initially appointed as Fitters in Category-IV but not as Motor Mechanic Grade-IV, on 3.10.1979 and 1.12.1981, respectively. In so far as the 4th petitioner is concerned, the said individual was appointed as Tractor

Mechanic in Category-IV on 4.12.1982 and later placed in Category-V w.e.f 1.3.1983 and in Category-VI w.e.f. 1.3.1991. The petitioners do not dispute the facts as asserted in the counter affidavit.

The only justification urged on behalf of the respondents for differential wage fixation of the petitioners and the respondents 3 and 4 *inter se* is that the fixation was done under the National Coal Wage Agreement No.V whereunder the basic pay of the petitioners was fixed at Rs.94.12 and the basic pay of the respondents 3 and 4 at Rs.97.66, on 1.3.1992. With regard to the 4th petitioner, it is stated that he does not belong to the stream of Motor Mechanic, but is a Tractor Mechanic. In any event the 4th petitioner was promoted to Category-V in the Tractor Mechanic stream on 1.7.1993 i.e., after the respondents 3 and 4 were promoted on 1.4.1982 to Category-V. The 4th petitioner is therefore junior to the respondents 2 to 4 in the cadre of Tractor Mechanic/Motor Mechanic Category-V.

In so far as petitioners 2 and 3 are concerned, even on the basis of the facts stated in the counter affidavit it is clear that they were promoted as Motor Mechanic Grade-V on 1.1.1982 as against such promotion of the respondents 3 and 4 on 1.4.1982. These petitioners are therefore seniors to respondents 3 and 4 in the category of Motor Mechanic-V. On application of principles of equal pay for equal work and in identical designation, which is an emanation of the equality injunctions of Articles 14 and 16 of the Constitution, petitioners 2 and 3 are entitled to pay on par with respondents 3 and 4. There is nothing in the counter affidavit which sets out a justification for dissimilar treatment between petitioners 2 and 3 and respondents 3 and 4. It is a settled principle of the equality doctrine that mini classifications based on micro distinctions are

an antithetical to equality. Clear and straight forward distinctions having a rational nexus with the object sought to be achieved can alone stand the test of Art.14.

From the averments in the counter affidavit no justification is discernable for fixing the pay of the petitioners 2 and 3 lower to pay fixed for respondents 3 and 4 in the category of Motor Mechanic Grade-V. These petitioners are therefore entitled to the relief.

Accordingly the writ petition is allowed in so far as the 2nd and 3rd petitioners are concerned. The respondents are directed to fix the pay of the petitioners 2 and 3 on par with respondents 3 and 4 in the category of Motor Mechanic Grade-V w.e.f. the date on which the respondents 3 and 4 were given such higher pay fixation benefit, with all consequential and incidental benefits as to arrears on such refixation and in their further career prospects.

The writ petition is dismissed in so far as petitioners 1 and 4 are concerned.

No order as to costs.

Dt: 06.06.2007 ----------

Pvsn/tsnr Justice G.Raghuram